

PART 1951 - SERVICING AND COLLECTIONS

Subpart D - Final Payment on Loans

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Part 1951 - SERVICING AND COLLECTIONS

Subpart D - Final Payment on Loans

§1951.151 Purpose.

This subpart prescribes authorizations, policies, and procedures of the Farm Service Agency (FSA), Rural Housing Service (RHS), Rural Utility Service (RUS) for its water and waste programs, and Rural Business-Cooperative Service (RBS), herein referred to as "Agency," for processing final payment on all loans. This subpart does not apply to direct single family housing customers of the RHS. (Revised 12-23-96, SPECIAL PN.)

§1951.152 Definition. As used in this subpart:

Mortgage includes real estate mortgage, deed of trust, or any other form of security instrument or lien on real property.

§1951.153 Chattel security or note-only cases.

(a) If a loan secured by both real estate and chattels is paid in full, the chattel security instrument will be satisfied or released in accordance with Subpart A of Part 1962 of this chapter.

(b) When a loan is evidenced by only a note and the note is paid in full, the County Supervisor will deliver the note to the borrower in the manner prescribed in §1951.155(c) of this subpart.

§1951.154 Satisfaction and release of documents.

(a) Authorization. The County Supervisor and District Director are authorized to execute the necessary releases and satisfactions and return the security instruments and related documents to the borrower. Satisfaction and release of security documents takes place:

(1) Upon receipt of payment in full of all amounts owed the Government, including any amounts owed to the loan insurance account, subsidy recapture amounts, all loan advances, and/or other charges to the borrower's account;

(2) Upon verification through the account information (AI) screen that the amount of payment received is sufficient to pay the full amount owed by the borrower; or

(3) When a compromise or adjustment offer has been accepted and approved by the appropriate Government official in full settlement of the account and all required funds have been paid.

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(b) State supplement. The State Director, with the advice of the Office of the General Counsel (OGC), will issue a State supplement and the necessary forms for releasing or satisfying real estate security instruments. Any unusual cases that are not covered by the State supplement will be handled in accordance with advice obtained from OGC.

(c) Lost note. When a paid-in-full note is not available because it has been lost, misplaced, or destroyed, the County Supervisor will obtain from the State Office a form of affidavit of lost note to be executed by the County Supervisor and, if appropriate, the holder of the note, respectively. After the affidavit has been executed, the release or satisfaction may be processed in the usual manner as provided in the State supplement, except that the affidavit will be used in lieu of the lost note. The original affidavit will be delivered to the borrower and an executed copy will be retained in the borrower's case file. If the foregoing is not sufficient under State law to effect release of the mortgage, the case will be handled in accordance with advice obtained from OGC.

§1951.155 County and/or District Office actions.

(a) Funds remaining in supervised bank accounts. When a borrower is ready to pay a loan in full, any funds remaining in the supervised bank account will be withdrawn and remitted for application to the borrower's account. If the entire principal of the loan is refunded after the loan is closed, the borrower will be required to pay interest from the date of the note to the date of receipt of the refund.

(b) Determining amount to be collected. The amount to be collected for payment in full of all loans made by the applicable Agency will be obtained by accessing the AI screen on the computer terminal. Requests for payoff balances on all accounts will be furnished in writing in a format similar to Exhibit A of this subpart (available in any Agency office). As in Exhibit A, the format used should require verification of the payoff amount by two employees in the servicing office.

(c) Delivery of satisfaction, notes, and other documents. The County Supervisor will process and forward Form RD 451-2, "Schedule of Remittances," covering the remittance which paid an account in full, to the Finance Office. In an unusual case where circumstances require delivery of an insured promissory note that is held by a private holder, the Finance Office will automatically request the investor to forward the note to the County Supervisor. If the County Supervisor does not receive the note within 30 days, the Finance Office will be notified to follow up on the request. When the insured note is forwarded to the County Supervisor, the paid note may be returned to the borrower and the mortgage securing it may be satisfied in accordance with paragraphs (c) (1) and (2) of

§1951.155 (c) (Con.)

this section. The County Supervisor may obtain advice from OGC (through the State Office) if there are questions concerning the above provisions. Security satisfactions/releases will conform to the requirements under State laws and as supplemented by State supplements. In a situation where an RH loan is paid in full and there is a payment assistance recapture receivable balance that the borrower elects to delay repaying, the amount of subsidy to be repaid will be determined when the principal and interest balance is paid. The mortgage securing the RHCDS, RBCDS, RUS, and/or CFSA debt will not be released of record until the total amount owed the Government is repaid. To permit graduation or refinancing by the borrower, the mortgage securing the subsidy owed may be subordinated in accordance with the conditions in subpart C of part 1965 of this chapter. (Revised 10-27-95, SPECIAL PN.)

(1) County Supervisors receiving final payments in a form other than cash, U.S. Treasury check, cashier's check, certified check, money order, bank draft, or check issued by an institution determined by the RHCDS to be financially responsible, will not release the mortgage and paid note until after a 30-day waiting period. The payment in full of the account(s) will then be verified by a transaction record received from the Finance Office and/or confirmation through access of the borrower's account under the Automated Discrepancy Processing System (ADPS). If other indebtedness to RHCDS is not secured by the mortgage, the County Supervisor will execute the satisfaction or release. When the stamped note is delivered to the borrower, the County Supervisor will also deliver the real estate mortgage and related title papers such as title opinions, title insurance binders, certificates of title, and abstracts which are the property of the borrower. Any water stock certificates or other securities that are the property of the borrower will be returned to the borrower. Also, any assignments of income will be terminated as provided in the assignment forms.

(2) Delivery of documents at the time of final payment will be made when payment is in the form of cash, U.S. Treasury check, cashier's check, certified check, money order, bank draft, or check issued by an institution determined by RHCDS to be financially responsible. The RHCDS will not accept payment in the form of foreign currency, foreign checks or sight drafts. The County Supervisor will complete the "County Office Use" section of Exhibit A of this subpart upon receipt of final payment. The County Supervisor will execute the satisfaction or release (unless other indebtedness to RHCDS is

covered by the mortgage) and mark the original note with a "paid-in-full" legend based upon receipt of the full payment balance of the borrower's account(s), computed as of the date final payment is received. In unusual cases where an insured promissory note is held by a private holder, the County Supervisor can release the mortgage and deliver the note when it is received. After processing the remittance which paid the account in full, the Finance Office will request the investor to forward the note to the County Supervisor. When the paid note is delivered to the borrower, other documents will be delivered at the same time.

(d) Method of delivery . When documents are delivered to the borrower, if a transmittal is used, Form RD 140-4, "Transmittal of Documents," will be prepared and used for that purpose as provided for in the Forms Manual Insert (FMI).

(e) Receipt for final payment . Form RD 451-1, "Acknowledgement of Cash Payment," will be prepared as provided in Subpart B of this part, and the FMI for preparing receipts.

(f) Cost of recording or filing of satisfaction . If State law requires the recording or filing of a satisfaction by the mortgagee, it will be accomplished as provided in the State supplement. Any cost required to be paid by the Government will be paid by voucher in the manner provided in RD Instruction 2024-E. Otherwise, the form of satisfaction will be delivered to the borrower for recordation at the borrower's expense.

(g) Property insurance . When the borrower's loan has been paid in full and the satisfaction or release of the mortgage has been executed, the County Supervisor and/or District Director is authorized to release the mortgagee interest in the insurance policy as provided in subpart A of part 1806 of this chapter (RD Instruction 426.1).

(h) Notice to holder . For insured loans, the Finance Office will prepare Form RD 451-20, "Notice and Acknowledgement of Final Payment," with all of Section I completed, including the address of the appropriate County Supervisor. The Finance Office will check the appropriate block in Section II and forward an original and one copy to the holder and one copy to the appropriate County Supervisor. When the original executed Form RD 451-20 is received by the County Supervisor, the original will be substituted for the copy. If the original executed copy is not received within 30 days after receipt of the copy, the County Supervisor will so notify the investor shown on Form RD 451-20. If the documents are not received after the contact by the County Supervisor, the Finance Office should be notified.

(i) Outstanding loan balance(s) . The County Supervisor will attempt to collect any account balance(s) that may result from an error by FmHA in handling final payments according to paragraph (b) of this section. If collection cannot be made, the debt will be settled according to Subpart B of Part 1956 of this chapter or reclassified to collection-only. A deficiency judgment may be considered if the balance is a significant amount (\$1,000 or more) and the borrower has known assets.

§1951.156 Final payment of insured farm ownership account when note and security instrument are held by the lender .

For an insured FO borrower whose note and security instrument are held by a lender (and the security is not under a trust assignment or declaration or trust), the following additional actions will be taken:

(a) Upon receipt from the lender of the promissory note marked "paid-in-full," the original security instrument, and the instruments of satisfaction or release, the County Supervisor will deliver to the borrower the note and other documents as provided in §1951.155 (d) of this subpart. Form RD 451-18, "Consent and Release of Interest of United States (Insured Farm Ownership Loans)," will also be prepared and distributed in accordance with the FMI.

(b) If a situation develops that is not covered by this section, the borrower's County Office case file will be forwarded to the State Director for assistance and special instructions. The State Director will consult with OGC before providing such instructions.

§1951.157 Redelegation of Authority .

County Supervisors and District Directors are authorized to redelegate to County and District Office employees listed in Exhibit B of Subpart B of this part (available in any FmHA office), the authority to execute releases and satisfactions in accordance with this subpart, provided it is determined that the individual to whom such authority is being redelegated has had sufficient training and experience to properly exercise such authority.

§§1951.158 - 1951.200 [Reserved]

Attachment: Exhibit A

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SAMPLE FORMAT

To: _____ Date: _____

These figures represent the estimated payoff amount subject to confirmation upon receipt, on the account of:

(Borrower's name and case number)

(Borrower's Address)

as of _____.

Principal balance(s)_____

Interest balance(s)_____

Subsidy recapture_____

Total (all loans)_____

Daily interest accrual_____

This figure is based on information provided. A change in any of the many variables involved in determining a payoff that includes recapture could result in a significant change in the above payoff amount.

If there will be a request for the release of security instruments when payment in full is tendered, the final payment must be in the form of cash or some other type considered by FmHA to represent a form of cash payment. Otherwise, security instruments will be released after processing of the final payment.

Sincerely,

County Supervisor

*County Office Use:

Verification of the accuracy of the figures contained herein has been performed through the review of any pending, unprocessed or discrepancy items. Total owed on the loan account(s) as of _____19__ is \$_____.

| | |
|--|---------------|
| _____ Signature and Title of Verifier | _____ Date |
| _____ Signature and Title of Verifier | _____ Date |

*This section is to be completed after the final payment is received in the County Office. Operator should page through all status screens for borrower until the Account Information (AI) screen shows "No more loans for requested case number."

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